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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,030	09/15/2003	Jeffrey S. Collins	5887-313U1	2536
570 7590 06/27/2007 AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			EXAMINER BOND, CHRISTOPHER H	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 06/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/663,030

Applicant(s)

COLLINS, JEFFREY S.

Examiner

Christopher H. Bond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. The arguments have been entered on April 13, 2007. Claims 1-13 and 17-18 are still pending in the present application.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-6, 8-12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heidelberg et al., USPAT 5,342,047 (Heidel) in view of Malick, USPAT 4,669,694 (Malick).**

4. As to claims 1, 6, 8 Heidelberg discloses (abstract), "...video lottery terminals that employ touch screens to permit a number of different games to be played on the same machine, the play of certain games can be improved by using electromechanical game buttons in conjunction with touch screen controls." Heidelberg further discloses (column 1, lines 52-56), "...[the] video gaming machine that is capable of playing a number of different games on a touch screen [Fig. 1, 12] with a number of game control buttons located [Fig. 1, 32, 36, 38, etc.] on the machine housing [Fig. 1, 14] that can be used along with or instead of the touch screen [Fig. 1, 20, 22, 24, 26, 28, 30, etc.] to control at least one of the games." Heidelberg further discloses (column 3, lines 9-21) that, "A computer...preferably a microprocessor, is used to control operations of the machine....The touch screen display...is connected via a line...to a video display

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controller...which in turn is connected to the computer...by a line...Displays on the screen...are controlled by the computer...utilizing the video controller." (This is equivalent to the applicant's limitation of having a touch, flatscreen amusement device comprising a display housing, a touch, flatscreen display within the display housing, a controller within the display housing which is coupled to the touch screen display and configured to control an electronic game.)

5. Heidel however fails to explicitly disclose a rear-mounted support stand configured to receive and support the display housing.

6. Malick discloses (abstract) an, "Apparatus for adjusting the tilt angle of a flat display panel..."

7. The advantages of using this apparatus--that is to say, the rear mounted support stand--Malick writes (column 1, lines 21-30) is that, "...advances in technology allow the bulky cathode ray tube to be replaced by devices which are much lighter and require less space, such as plasma display devices. The plasma and other flat devices may be installed in a housing unit which is essentially flat and does not have the weight distribution normally found in a cathode ray tube display device. Consequently, the various mounting devices devised for cathode ray tube structures provide no benefit for position of the flat screen."

8. This is evidence that one of ordinary skill in the art would find a reason/motivation/suggestion to use a rear mounted support stand to support a flat screen device, as it provides a better support and positioning.

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9. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Heidel with the rear mounted support stand as described by Malick for better support and positioning of the screen.

10. Accordingly, claims 1 and 8 would have been at least obvious.

11. As to claims 2-4, 9-12, and 18, Heidel discloses (column 2, lines 66-68) that, "The video lottery terminal...includes a coin acceptor...[and] a bill acceptor..." Heidel further discloses (column 6, lines 3-7), "...control means; including a memory containing a plurality of games, responsive to...game control buttons and machines control buttons for controlling the gaming machine..." (This further meets the applicant's limitation of having a memory storage device disposed within the display housing for storing system control software and electronic games.) 11. Heidel in view of Malick discloses the claimed invention except for: the rear-mounted support stand is configured to receive one of a coin acceptor, paper currency acceptor, and a card reader, Wherein the coin acceptor is located in the top section of the rear-mounted support stand, and the paper currency acceptor having an acceptance slot located in a bottom front facing section of the rear-mounted support stand. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include these parts on the rear mounted support stand as a matter of design choice, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

12. Accordingly, claims 2-4, 9-12, and 18 would have been at least obvious.

13. As to claim 5, Heidel in view of Malick disclose the claimed invention except for the limitation wherein the display housing is selectively removable from the rear-

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mounted support stand. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the display housing removable for mounting the display housing in an alternative location or on a reduced footprint, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

**14. Claims 7, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heidel in view of Malick, and further in view of Kaminkow et al., US PUB 2004/0023708 (Kaminkow).**

15. What is disclosed in Heidel and Malick is discussed above and incorporated herein.

16. As to claim 7, Heidel in view of Malick discloses the claimed invention except for a touch "screen device wherein the display is a liquid crystal display". It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a liquid crystal display (LCD), as they are less bulky and lighter than CRT displays. It was notoriously well known in the art at the time invention that LCDs were being employed in touch screen gaming devices, for example, Kaminkow discloses a gaming device (paragraphs [0026] and [0028]) where the, "Gaming device...also includes one or more display devices...A display device can be any viewing surface such as glass, a video monitor or screen, a liquid crystal display or any other display mechanism...In certain instances it is preferable to use a touch screen...and an associated touch screen controller...instead of a conventional video monitordisplay device." Furthermore, it is notoriously well known that an LCD is a type of flat screen display device, and meets

the applicant's limitation of having a touch screen display with either a flat screen display or LCD display.

17. As to claims 13 and 17, Kaminkow discloses (paragraph [0023]) that in addition to a coin slot and bill acceptor, "Other devices could be used for accepting payments such as readers or validators for credit cards or debit cards."

18. Heidel in view of Malick and further in view of Kaminkow discloses the claimed invention except for: the rear-mounted support stand is coupled to a card reader or has a card reader located on the front facing section of the rear-mounted support. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include these parts on the rear mounted support stand as a matter of design choice, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

19. Accordingly, claims 13 and 17 would have at least been obvious.

### ***Response to Arguments***

20. Applicant's arguments filed April 13, 2007 have been fully considered but they are not persuasive.

21. In response to applicant's argument of claim 1 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, because the applicant gives no patentable weight to the rear-mounted support stand in claim 1, it has been interpreted by the Examiner as an obvious design choice, and as such, it would have been obvious for one of ordinary skill in the art to combine the invention of Heidel with the rear-mounted support stand of Malick to incorporate this design feature.

22. In response to applicant's argument of claim 1 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

23. As to applicant's argument for claims 2-5, the applicant's argument that claims 2-5 are not *prima facie* obvious for the reasons set forth with respect to claim 1, the arguments are moot in view of the Examiner's response to the claim 1 discussed above.

24. In response to applicant's argument for claims 2-5 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one



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of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, regarding claims 2-4, the Examiner respectfully points out to the applicant that the Heidel invention (column 2, lines 66-67) has a coin and bill acceptor. The Heidel invention in view Malick suggests a gaming machine with a rear-mounted support stand. Thus, Heidel in view of Malick would disclose the claimed invention except for the applicant's limitation of having the rear-mounted support stand configured to receive one of a coin acceptor or paper currency acceptor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to configure a coin or paper currency acceptor from the Heidel invention on the rear-mounted support stand of Malick, since it had been held that rearranging parts (i.e. taking bill/coin acceptor from Heidel and adding such to the rear-mounted support design element proposed by Malick) of an invention involves only routine skill in the art. Additionally, the placement of these parts as addressed in the limitations of claims 3 and 4 are obvious rearrangements of limitations that exist in Heidel in view of Malick. See *In re Japikse*, 86 USPQ 70. As to claim 5, the references of Heidel in view of Malick need not disclose or suggest that the display housing is selectively removable from the the rear-mounted support stand, as discussed by the Examiner above, as it has been held that constructing a formerly integral structure in various elements (i.e. making the display housing separable from the rear-mounted support stand) involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

25. In response to applicant's argument for claims 8-12 and 18, that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as discussed above in response to applicant's argument of claim 1, the applicant fails to give any patentable weight to the rear-mounted support stand. Thus, it has been interpreted by the Examiner as an obvious design choice, and as such, it would have been obvious for one of ordinary skill in the art to combine the invention of Heidel with the rear-mounted support stand of Malick to incorporate this design feature.

Furthermore in response to applicant's arguments that claim 8 and 18 are not *prima facie*, because the the references fail to disclose or suggest: a touchscreen amusement device, a flatscreen touchscreen display, and a device controller disposed within the display housing—all these limitations are disclosed in the Heidel invention and discussed above. Flatscreen is a rather generic term used by the applicant. This definition is not clearly defined within the applicant's specification to limit the meaning to certain devices. While the applicant lists a liquid crystal display (LCD) flatscreen as one type of flatscreen, this in no way limits the definition of flatscreen in the broadest sense of the term. Those skilled in the art will clearly recognize that CRT monitors *can be* flatscreen display devices. The Examiner inadvertently, in addressing claim 6, mentions

that Heidel does not use a flatscreen or teach a flatscreen, but now disacknowledges this admittance, as a CRT is but one example of a flatscreen.

26. In response to applicant's argument that the examiner's conclusion of obviousness for claims 8 and 18 is based upon improper-hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

27. As to applicant's argument for claims 9-12, the applicant's argument that claims 9-12 are not *prima facie* obvious for the reasons set forth with respect to claim 8, are moot in view of the Examiner's response to the claim 8 arguments discussed above.

28. As to applicant's argument for claims 6 and 7, the applicant's argument that claims 6 and 7 are not *prima facie* obvious for the reasons set forth with respect to claim 8 and 18, the arguments are moot in view of the dependency of claims 6 and 7 and moot vis-a-vis the Examiner's response to the claim 1 discussed above.

29. Regarding claims 13 and 17, the applicant's argument that claims 13 and 17 are not *prima facie* obvious for the reasons set forth with respect to claim 8, the argument would be moot in view of the Examiner's response to claim 8 discussed above.

30. In response to applicant's argument that there is no suggestion to combine the references for claims 7, 13, and 17, the examiner recognizes that obviousness can only

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be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been common knowledge to those of ordinary skill in the art to use the LCD display and card reader suggested by Kaminkow, as they are common limitations that existed on gaming machines at the time of the applicant's invention.

31. In response to applicant's argument that the examiner's conclusion of obviousness for claims 7, 13, and 17 is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

32. Accordingly, the rejection is still proper, and thus maintained.

### **Conclusion**

33. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Bond whose telephone number is (571) 272-9760. The examiner can normally be reached on M-F 9:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHB

  
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